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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,724	09/20/2000	Joseph E. Cloutier	4-4-1-1	5654

30594 7590 01/24/2005

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EXAMINER

NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

OK

Office Action Summary

Application No.

09/665,724

Applicant(s)

CLOUTIER ET AL.

Examiner

Toan D Nguyen

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15, 19 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 16-18, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 7, 15 and 19 are objected to because of the following informalities:

In claim 7 line 4, it is suggested to delete "." and change to ", and decrease a number of ramp up times."

In claim 15 line 5, it is suggested to delete "." and change to ", and decrease a number of ramp up times."

In claim 19 line 5, it is suggested to delete "data transmission between said mobile communication device and an application." and change to "data transmission and decrease a number of ramp up times between said mobile communication device and an application."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 7-10, 15, 19 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al. (US 6,330,451) in view of Levenson et al. (US 6,791,945).

For claim 7, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:

inserting channel delay in data (figure 2, reference 105) being carried over a communication channel to increase a length of time required for a time out (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 7).

One skilled in the art would have recognized decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

For claim 8, Sen et al. disclose wherein said inserting includes inserting channel delay into data (figure 2, reference 105) to be transmitted by a base station (figure 2, reference 106) over said communication channel (col. 6 lines 66-67).

For claim 9, Sen et al. disclose further comprising:

controlling an amount of said channel delay inserted in said data (col. 6 lines 50-55).

For claim 10, Sen et al. disclose wherein said controlling includes:

monitoring acknowledge messages received in response to said data transmitted with said delay (col. 6 lines 62-66), and

determining a desired channel delay for insertion based on a delay observed between transmission of said data and reception of said acknowledge messages (col. 6 lines 51-55 and col. 6 lines 61-66).

For claim 15, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:

means for transmitting and receiving data over a communication channel (figure 2, col. 6 lines 34-37); and

means for inserting channel delay into data (figure 2, reference 105) to be transmitted over said communication channel to increase a length of time required for a time out (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring

during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 15).

One skilled in the art would have recognized decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

For claim 19, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:

means for transmitting and receiving data over a communication channel (figure 2, col. 6 lines 34-37); and

means for inserting channel delay (figure 2, reference 105) in said communication channel to control time out for data transmission between said mobile communication device and an application (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 19).

One skilled in the art would have recognized decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it

would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

For claim 22, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:
inserting channel delay (figure 2, reference 105) in data being carried over a communication channel (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose to decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 22).

One skilled in the art would have recognized decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

For claim 23, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:

means for transmitting and receiving data over a communication channel (figure 2, col. 6 lines 34-37); and

means for inserting channel delay (figure 2, reference 105) into data to be transmitted over said communication channel (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose to decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 23).

One skilled in the art would have recognized decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

For claim 24, Sen et al. disclose selectively delaying data communications in a wireless communication system to provide voice communications capacity, comprising:

means for transmitting and receiving data over a communication channel (figure 2, col. 6 lines 34-37); and

means for inserting channel delay (figure 2, reference 105) in said communication channel between said mobile communication device and an application (col. 6 line 66 to col. 7 line 1).

However, Sen et al. do not disclose to decrease a number of ramp up times. In an analogous art, Levenson et al. disclose the shaping of round trip time delay network packet transmission characteristics to reduce the number of packet time outs occurring during established sessions (col. 1 lines 8-11 which in turn decreases a number of ramp up time as set forth in claim 24).

One skilled in the art would have recognized to decrease a number of ramp up times to use the teachings of Levenson et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the decrease a number of ramp up times as taught by Levenson et al. in Sen et al.'s system with the motivation being minimizes the occurrence of such unnecessary time outs by automatically increasing the computed running average 30 (col. 3 lines 24-28).

5. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al. (US 6,330,451) in view of Levenson et al. (US 6,791,945) further in view of Packer (US 6,038,216).

For claims 11-13, Sen et al. in view of Levenson et al. do not wherein said inserting includes inserting said channel delay into an acknowledge message to be transmitted over said communication channel in response to a received data transmission. In an analogous art, Packer discloses wherein said inserting includes inserting said channel delay into an acknowledge message to be transmitted over said communication channel in response to a received data transmission (col. 3 lines 23-24).

Packer discloses further comprising: controlling an amount of channel delay inserted in said acknowledge message (col. 4 lines 10-11 as set forth in claim 12).

Packer discloses wherein said controlling includes: adding channel delay to said acknowledge messages (col. 3 lines 23-24) and Sen et al. disclose so as to increase channel delay as observed by a receiver of the acknowledge message (col. 6 line 62 to col. 7 line 1 as set forth in claim 13).

One skilled in the art would have recognized wherein said inserting includes inserting said channel delay into an acknowledge message to be transmitted over said communication channel in response to a received data transmission to use the teachings of Packer in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the wherein said inserting includes inserting said channel delay into an acknowledge message to be transmitted over said communication channel in response to a received data transmission as taught by Packer in Sen et al.'s system with the motivation being to directly control the data rate of the source data at the station originating the packet (col. 3 lines 26-27).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sen et al. (US 6,330,451) in view of Levenson et al. (US 6,791,945) further in view of Riihinen et al. (US 6,697,331).

For claim 14, Sen et al. in view of Levenson et al. do not disclose wherein said inserting includes adding channel delay to said communication channel at a mobile station to control time out for data transmission between said mobile station and an application. In an analogous art, Riihinen et al. disclose wherein said inserting includes adding channel delay to said communication channel at a mobile station to control time

out for data transmission between said mobile station (figure 2, reference 20) and an application (figure 2, reference 46) (col. 17 lines 56-61).

One skilled in the art would have recognized wherein said inserting includes adding channel delay to said communication channel at a mobile station to control time out for data transmission between said mobile station and an application to use the teachings of Riihinen et al. in the system of Sen et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use the wherein said inserting includes adding channel delay to said communication channel at a mobile station to control time out for data transmission between said mobile station and an application as taught by Riihinen et al. in Sen et al.'s system with the motivation being advantageous to set the time out values of the poll timer and receive timer EPC to accommodate these transport network delays and processing delays (col. 17 lines 65-67).

Allowable Subject Matter

7. Claims 16-18 and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 7-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment on January 05, 2004 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

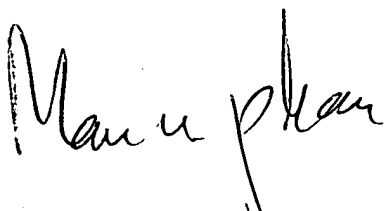
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRIMARY EXAMINER